

By Contradiction
said second end comprising a false bottom end [compring] comprising a rounded [an] open bottom end extending from an arcuate shoulder.

REMARKS

Applicant having cancelled Claims 2-4 and 10-18 without prejudice and amended Claim 1, Claims 1 and 5-9 now remain in this patent application.

Claim 1 has been amended to correct a misspelling and to more particularly recite that the false bottom end comprises a rounded open bottom end extending from an arcuate shoulder. Support for the amendment of Claim 1 is found in the specification at page 9, lines 7-9.

Applicant respectfully submits that and the cancellation of Claims 2-4 and 10-18 and the amendment of Claim 1 have been made in good faith, that no new matter has been added and that Claims 1 and 5-9 are in proper form for allowance.

a. §103(a); Burns

Claims 1-2 and 4-9 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,458,854 to Burns.

It is the examiner's position that it would have been an obvious matter of design choice to form the false bottom into an arcuate shape, since such a modification would have involved a mere change in the shape of the component. The examiner further states that a change in size is generally recognized as being within the level of ordinary skill in the art.

Applicant respectfully traverses the rejection and submits that Claims 1 and 5-9 would not have been obvious over Burns.

Burns discloses a collection assembly with a bottom edge 47 that is not rounded (as shown in Fig. 1) for allowing the container to be placed upright on a flat surface. Burns further discloses that an extension be added to Burns to make it compatible with instrumentation.

The present invention is a collection container comprising a solid partition and a second end comprising a false bottom end which comprises a rounded open bottom end extending from an arcuate shoulder. The present invention is a one piece collection container that is compatible with clinical equipment and does not require any additional apparatus or extensions to be compatible with clinical equipment.

Applicant respectfully submits that Burns does not teach or suggest a false bottom container having a rounded open bottom end extending from an arcuate shoulder. Applicant further submits that a false bottom container having a rounded open bottom end extending from an arcuate shoulder is not a matter of design choice. Applicant respectfully traverses such an assertion by the Examiner without proper foundation from a reference in support of the Examiner's personal opinion.

Applicant respectfully submits that the present invention is compatible with standard clinical equipment and instruments as compared with the device disclosed in Burns. Burns is not compatible with standard clinical equipment unless modified with an adapter that is secured to the bottom the Burns device.

Applicant respectfully requests reconsideration and withdrawal of the rejection.

CONCLUSION

Allowance of this application is courteously urged.

Respectfully submitted,

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